

UNITED STATES DISTRICT COURT
IN THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ALICE GOODALL,
Plaintiff,

-vs.-

DEMAND FOR JURY TRIAL

FULTON, FRIEDMAN & GULLACE, LLP
a Michigan limited liability company,
Defendant.

COMPLAINT & JURY DEMAND

Plaintiff, through counsel, Nitzkin and Associates, by Gary Nitzkin states the following claims for relief:

JURISDICTION

1. This court has jurisdiction under the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. §1692k(d) and 28 U.S.C. §§1331,1337.
2. This court may exercise supplemental jurisdiction over the related state law claims arising out of the same nucleus of operative facts which give rise to the Federal law claims.

PARTIES

3. The Defendant to this lawsuit is Fulton Friedman and Gullace, LLP which is a limited liability partnership that purports to be licensed to conduct business in Michigan.

However, Plaintiff has been unable to locate this entity as having been registered with the State of Michigan.

VENUE

4. The transactions and occurrences which give rise to this action occurred in St. Clair County.
5. Venue is proper in the Eastern District of Michigan.

GENERAL ALLEGATIONS

6. Defendant is attempting to collect a consumer type debt allegedly owed by Plaintiff in regards a Bank One credit card in the amount of \$31,858.22.
7. On or about October 17, 2012, Defendant called Plaintiff in an attempt to collect on this alleged debt. Defendant called from 877-205-4778.
8. During this conversation, Defendant, through its representative, Lewis, told Plaintiff that Michigan is an “automatic judgment state.” Lewis told Plaintiff that when they file a lawsuit against her and there is an automatic judgment.

COUNT I - FAIR DEBT COLLECTION PRACTICES ACT

9. Plaintiff reincorporates the preceding allegations by reference.
10. At all relevant times Defendant, in the ordinary course of its business, regularly engaged in the practice of collecting debts on behalf of other individuals or entities.

11. Plaintiff is a "consumer" for purposes of the FDCPA and the account at issue in this case is a consumer debt.
12. Defendant is a "debt collector" under the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §1692a(6).
13. Defendant's foregoing acts in attempting to collect this alleged debt violated 15 U.S.C. §1692 et. seq;
14. The Plaintiff has suffered economic, emotional, general and statutory damages as a result of these violations of the FDCPA.

COUNT II - VIOLATION OF THE MICHIGAN OCCUPATIONAL CODE

15. Plaintiff incorporates the preceding allegations by reference.
16. Defendant is a "collection agency" as that term is defined in the Michigan Occupational Code ("MOC"), M.C.L. § 339.901(b).
17. Plaintiff is a debtor as that term is defined in M.C.L. § 339.901(f).
18. Defendant's foregoing acts in attempting to collect this alleged debt violated MCL §339.915
19. Plaintiff has suffered damages as a result of these violations of the Michigan Occupational Code.
20. These violations of the Michigan Occupational Code were willful.

COUNT III - VIOLATION OF THE MICHIGAN COLLECTION PRACTICES ACT

21. Plaintiff incorporates the preceding allegations by reference.

22. Defendant is a "Regulated Person" as that term is defined in the Michigan Collection Practices Act ("MCPA"), at MCL § 445.251.
23. Plaintiff is a "Consumer" as that term is defined at MCL § 445.251.
24. Defendant's foregoing acts in attempting to collect this alleged debt violated MCL §445.252
25. Plaintiff has suffered damages as a result of these violations of the MCPA.
26. These violations of the MCPA were willful.

DEMAND FOR JURY TRIAL

Plaintiff demands trial by jury in this action.

DEMAND FOR JUDGMENT FOR RELIEF

Accordingly, Plaintiff requests that the Court grant him the following relief against the defendant:

- a. Actual damages.
- b. Statutory damages.
- c. Treble damages.
- d. Statutory costs and attorney fees.

Respectfully submitted,

December 13, 2012
/s/ Gary Nitzkin
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